UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

146954

ACTION MEMORANDUM

DATE: MAY 23 2005

SUBJECT: Request for a Removal Action at the Kraus Enterprise Site, Buffalo, Erie County, New York

FROM: Kevin M. Matheis, On-Scene Coordinator
Removal Action Branch

TO: William McCabe, Acting Director
Emergency and Remedial Response Division

THRU: Richard C. Salkie, Chief
Removal Action Branch

Site ID#: WL

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the proposed removal action described herein for the Kraus Enterprise Site (Site), located at 20 Isabelle Street, Buffalo, Erie County, New York, 14216. The proposed project ceiling is $705,000 of which $553,000 is for mitigation contracting.

The Site is not on the National Priorities List (NPL). There are no nationally significant or precedent-setting issues associated with the proposed removal action.

IL SITE CONDITIONS AND BACKGROUND

The Comprehensive Envirohmental Response, Compensation and Liability Information System ID Number for the Site is NYO000201939.

A. Site Description

1. Removal site evaluation (RSE)

On December 22, 2004, the New York State Department of Environmental Conservation (NYSDEC) requested that EPA evaluate the Kraus Enterprise Site for a Superfund removal action. In the referral request, the NYSDEC informed EPA that the vacated Kraus Enterprise warehouse contains an estimated 1,000 or more abandoned containers of paints, solvents, petroleum, and unknown materials which were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and stages of deterioration. As discussed below, this referral was based on a joint inspection conducted by the NYSDEC and EPA. The referral is included as Attachment 1.

The Site consists of a former industrial building which was subdivided into approximately 50 tenant spaces, within interconnected buildings, and rented for storage and industrial use. The Site is owned by William P. Kraus, Sr., d/b/a Kraus Enterprise. Mr. Kraus filed personal bankruptcy in January 2004. The warehouse operated until April 2004 when Mr. Kraus notified the approximately 21 tenants that he was abandoning the property. Mr. Kraus also defaulted on his loan relating to the Site. In July and August 2004, the City of Buffalo Housing Court ordered all remaining tenants of the buildings to vacate the property due to the unsafe conditions in the buildings, which included partially collapsed roofs, holes in the exterior walls and broken windows. From August to December 2004, former tenants vacated the property, and may have abandoned chemicals that remained in their rented spaces.

EPA has previously performed a removal action within a portion of the Site. The Aryl Corp. Superfund Site (Aryl Site) consists of a portion of the Site where Aryl Corp., a defunct former Kraus Enterprise tenant, had abandoned numerous containers of hazardous substances. See Aryl Corp. Superfund Site Action Memorandum dated January 30, 2004. EPA began its removal action at the Aryl Site in December 2003. On December 14, 2004, EPA accompanied the NYSDEC to the Aryl Site for the purpose of reviewing the removal action that was conducted by EPA. At that time, in response to the deteriorating conditions of the abandoned Kraus Enterprise property, a joint inspection of Kraus Enterprise was conducted, resulting in the December 22, 2004 NYSDEC referral request.

As documented in the referral request, EPA and NYSDEC identified releases and potential releases of hazardous substances in drums and other containers located at the Site during the December 14, 2004 joint inspection. Many containers found at the Site had labeling which indicated the contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that had been broken. Excessive amounts of abandoned solid waste limited access to some of the abandoned waste materials. In addition, suspected asbestos-containing materials (ACM) were observed, both on piping and floor areas.

In response to the referral, EPA prepared an expedited renioval assessment (ERA) (copy attached). An EPA attomey notified the property owner of EPA's need for continued access to the Site buildings. A tenant list and layout map of the Site were provided to EPA by Mr. Kraus' attomey.

EPA conducted an investigation of the Site on January 13, 2005 to further document the presence of hazardous substances and substantiate the threat to human health and the environment. EPA observed that in the time period since the December 14, 2004 investigation, the City of Buffalo had secured the buildings to the extent practical. Although one doorway remained open, numerous gaping holes in the buildings had been boarded up. Upon entry into the buildings, EPA found that the floors were covered by two to four inches of water. Three six-inch water mains had broken and were leaking throughout the buildings, spilling the water from water mains in the three buildings into the street and sewers.

EPA found various containers throughout the Site labeled with hazardous substances. The estimated 1,000 or more abandoned containers in varying sizes (pints, 1-5-30 gallon cans/dmms) of paints, solvents, petroleum wastes, and unknown materials which were previously observed at the December 14, 2004 joint inspection remain at the Site in various stages of deterioration. The containers are stored without regard to chemical compatibility. Based on a review of available dmm/container labels, corrosive, flammable and toxic materials are present, including materials within the definition for RCRA-regulated D001 oxidizers and D002 corrosives. These include flammable materials such as acetone, ether acetate, topcoat paint, lacquer, mineral spirits, methanol, toluene and xylene. Other hazardous substances at the Site include ammonium hydroxide, ethyl acetate, ethylene glycol, hexane, hydrochloric acids, and caustic detergents (pH >12.5).

Some spilled materials were observed in several areas of the warehouse, including a large waste pile with unknown containers within the pile that had recently been set on fire. EPA also found flammable compressed gases in approximately 30 compressed gas cylinders scattered throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. In addition, approximately forty 55-gallon dmms were observed to be abandoned on-site. Drum labels were not readily visible due to the debris pushed into the dmm piles. Other dmms contained unknown materials as no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor. Several of the dmms and containers were observed to be in a deteriorated state and there is evidence of spillage. Potential releases to the environment may have occurred through pits and sumps in the floors. Excessive amounts of abandoned solid waste and flooding in the buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

2. Physical location

The Site is located in a mixed commercial and residential area in the Riverside section of the City of Buffalo, Erie County, New York. Isabelle Street mns along the northwest edge of the Site and Crowley Avenue borders the southwest edge of the Site. Bordering the Site along the eastem edge is a commercial rail-line. The Site is one block east/southeast of Ontario Ave., a main commercial street within the Riverside section of Buffalo. Both Isabelle and Crowley contain residential properties directly across from the Site. There are approximately 7,399 persons comprising 3,353 households within a ½ mile radius of the Site, and approximately 30% of those persons are aged 17 or younger, and approximately 14% are aged 60 and older.

The Site property is approximately 2 acres in size and the Site buildings cover most of the Site property. These interconnected buildings include former warehouse tenant spaces. These tenants used portions of the buildings fpr various manufacturing operations and warehouse storage.

3. Site characteristics

EPA's Enforcement Team is investigating Site operational history and former occupants and operators of the buildings. Historical Sanbom maps have indicated that the Site buildings were constmcted in 1910 and operated initially by the King Sewing Machine Company. Another Sanbom map from the 1960's indicates that Sylvania Electric Products operated at the facility. At some point, Kraus Enterprise acquired the Site buildings and began operations.

This is the first Action Memorandum for the Site.

4. Release or threatened release into the environment of a hazardous substance, or pollutant, or contaminant

The hazardous substances identified by EPA from container labeling as part of the ERA and information obtained during the Site inspections includes the following hazardous substances, as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. Section 9601 et seq.

Material	Quantity	Storage Method	Primary Hazard	Statutory Source for Designation as a Hazardous Substance
Asbestos	~1,000 linear feet and 100 cubic yards of debris	None. Hanging from piping and scattered throughout the buildings in debris piles	Carcinogen	1, 2
Flammable Liquids - Paints and solvents, propane cylinders	~500 containers	1 pint - 5 gallon pails	Flammable (D001)	3
Corrosive Detergents and Cleaners	~500 containers.	1 pint - 5 gallon pails	Corrosive (D002)	3

Notes: 1 - Clean Water Act (CWA) Section 307(a)
2 - Clean Air Act (CAA) Section 112
3 - Resource Conservation and Recovery Act (RCRA) Section 3001

The suspected ACM in the buildings is in poor condition and much of it has collapsed onto the floors. Some of the ACM has been swept into large debris piles and abandoned. Asbestos is designated as a CERCLA hazardous substance under 40 CFR §302.4 when it is friable. Friability is the ease with which a material can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. The more easily that a material crumbles, the greater the potential for fiber release. Once released, asbestos fibers have the ability to remain airborne for an extended period of time. Much of the ACM in the buildings on-site is extremely friable due to its exposure to the elements as a result of the partially collapsed roof, damaged walls and broken windows.

The buildings' partially collapsed roofs and broken windows represent mechanisms for release of asbestos fibers into the environment. When ACM are exposed to the elements, the potential for the off-site migration of asbestos fibers is significantly increased. The potential for future releases can only be exacerbated by further deterioration of the buildings and/or release from the Site by the threat of fire and/or explosion. Once on-site, EPA will sample to confirm the presence of ACM in the buildings. EPA will remove the ACM on a case-by-case basis, depending on the condition of it. EPA will only remove ACM that exhibits active releases, such as damaged areas and areas where the asbestos has fallen to the ground. EPA may leave asbestos pipes in place and use an encapsulant to prevent asbestos fibers from releasing.

The small containers of paint-related materials and corrosive cleaners are scattered throughout

the facility. The containers are stored without regard to chemical compatibility. On December 7 and 8, 2004, fires occurred in an area of chemical storage. A 40-cubic yard pile of debris remains on-site with various containers of materials within the Site debris.

Approximately 30 compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. Excessive amounts of abandoned solid waste and flooded buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

In addition to the smaller containers, approximately 40 55-gallon drums were observed to be abandoned on-site. Drums labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials, since no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor.

This removal action addresses the disposal of these hazardous materials froru the Site.

5. NPL status

The Site is not listed on the NPL, and there are no efforts underway to include the Site on the NPL.

6. **Maps, pictures, and other graphic representations**

Figures 1, 2, and 3 are included as Attachruent 2 and provide the location and configuration of the Site.

B. Other Actions to Date

1. Previous actions

EPA implemented a removal action at the Aryl Site, at the warehouse unit of Aryl Corp., a forruer tenant of the Kraus Enterprise Site which comprised a portion of the Kraus Enterprise Site. At the time, portions of the property were occupied by active businesses.

In July and August 2004, the City of Buffalo Housing Court ordered all remaining tenants of the buildings to vacate the property due to the poor condition of the buildings.

2. Current actions

The City of Buffalo has taken steps to secure the Site buildings after the December 2004 fires at the Site. The Site remains vacant and idle, with frespassing and vandalism continuing.

C. State and Local Authorities' Role

1. State and local actions to date

No City of Buffalo or NYSDEC cleanup actions have occurred to date at the Site.

2. Potential for continued State/local response

There are no actions being taken by State or local govemment agencies to address the hazardous substances located at the Site.

III. THREATS TO PUBLIC HEALTH, OR WELFARE, OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;

There has been and continues to be a release and potential release of CERCLA-designated hazardous substances from the Site, which is defined as a facility under section 101(9) of CERCLA. As a result, there is a potential exposure td hazardous substances by nearby populations.

The hazardous substances include an estimated 1,000 or more abandoned containers of paints, solvents, petroleum wastes, and unknown materials were observed in varying sizes (pints, 1-5 30-gallon cans/drums) in various stages of deterioration. Many containers had labels that indicated their contents were corrosive, flammable or toxic. Based on a review of available dmm/container labels, flammable materials (acetone, ether acetate, topcoat paint, lacquer, mineral spirits), hydrochloric acids, and caustic detergents (pH >12.5) are present. Some spilled materials were observed in several areas of the warehouse, including a large waste pile (with unknown containers within) that had recently been set on fire. A number of compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. Hazardous substances found at the Site include acetone, ammonium hydroxide, ethyl acetate, ethylene glycol, hydrochloric acid, hexane, methanol, toluene and xylene.

Approximately 40 55-gallon dmms were observed to be abandoned on-site. Dmms labels were not readily visible due to the debris pushed into the dmm piles. Other drums contained unknown materials, since no labels were evident. One of the 55-gallon dmms within the buildings had

been completely spilled onto the floor.

There is evidence of spillage from dmms and other containers, possibly to the environment, through pits and sumps in the floor. Several of the dmms and containers were observed to be in a deteriorated state. In addition, suspected asbestos-containing materials and asbestos insulation were observed on piping and on the floor. Although the Site is temporarily secured to some degree, it has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless people are found in the Site buildings. Releases from asbestos, drums and laboratory containers have occurred and continue to occur at the Site, presenting a threat to public health and welfare.

(iii) Hazardous substances, or pollutants, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

The hazardous substances within the containers on-site present a threat of continuing release. One of the 55-gallon dmms was tipped over, spilling its contents onto the floor. Other dmms were mixed with the Site debris and may have released their contents, but were inaccessible due to current Site conditions.

The Buffalo Fire Department responded to two fires in December 2004 at the warehouse involving debris mixed with hazardous substances.

(v) Weather conditions that may cause hazardous substances, pollutants, or contaminants to migrate or be released; and

Some of the roofs in the Site buildings are in poor condition. The City of Buffalo ordered tenants to vacate the buildings due to unsafe conditions at the Site. Snow melt and rainfall contribute to the decay of the buildings' stmctures and may cause additional parts of the roofs to collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the Site has no utilities. Some of the containers at the Site may release their contents as a result. Due to the cold weather, water mains within the buildings have mptured, causing releases of materials within the Site and off-site.

(vi) Threat of fire or explosion;

The Site contains approximately 1,000 various size containers of paint-related material, thinners and compressed gases that are flammable. Some of the containers are in poor condition and are leaking. The containers are being stored without regard to chemical compatibility. In December 2004, fires occurred at the Site on two separate occasions. In addition to airbome releases of hazardous substances in the event of a fire, asbestos fibers would also be released from the Site.

(vii) The availability of other appropriate federal or State response mechanisms to respond to the release.

No other federal or State response mechanism is available to respond to the significant threat which the Site presents.

B. Threats to the Environment

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;

The Site is temporarily secured, but has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless are found in the Site buildings. The containers of hazardous substances and asbestos in the buildings present a threat to public health and welfare. Releases from asbestos, drums and laboratory containers have occurred and continue to occur at the Site. These releases, particularly airbome releases and mn-off resulting from a chemical fire or asbestos release, may present a threat to the environment.

(v) Weather conditions that inay cause hazardous substances, pollutants, or contaminants to migrate or be released; and

Some of the roofs in the Site buildings are in poor condition. The City of Buffalo ordered tenants to vacate the buildings due to unsafe conditions at the Site. Snow melt and rainfall contribute to the decay of the buildings' stmctures and may cause additional parts of the roof to collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the Site has no utilities. The containers at the Site may release their contents as a result. Due to the cold weather, water mains within the buildings have mptured and caused potential releases of hazardous substances within the Site buildings and off-site, thereby posing a threat to the environment.

IV. PROPOSED ACTION DESCRIPTION AND ESTIMATED COSTS

a. Stabilization - All containers that are open or of questionable integrity will be over-packed or transferred into new containers. Containers will be placed in compatible waste groups and removed from areas containing asbestos.

b. Sampling - All containers will be inventoried and sampled as appropriate. Where possible, composite samples will be taken to reduce the total amount of samples analyzed. Areas of asbestos contamination will be sampled to confirm and/or delineate the presence of asbestos in Site debris.

c. Analysis - All samples will be evaluated for compatibility. The samples will be analyzed for disposal parameters, which will include the full toxicity characteristic leaching procedure (TCLP) analysis.

d. Disposal - Upon receipt of disposal analysis, waste profiles will be completed and sent to disposal facilities for acceptance. Compatible materials will be sent to off-site disposal facilities in compliance with EPA's Off-Site Disposal Rule.

e. Asbestos Abatement - Some of the areas at the Site which contain dmms and other containers of hazardous substances are situated in highly contaminated asbestos areas. During the stabilization and sampling phase, areas that contain the greatest concentrations of asbestos will be addressed prior to cleanup actions. An asbestos abatement contractor will abate the asbestos from these areas. Once these areas are abated, workers will proceed with hazardous substance stabilization, sampling and disposal. EPA will only remove asbestos that exhibits active releases, such as damaged areas and areas where the asbestos has fallen to the ground. Other areas of asbestos will be encapsulated and left in place.

f Other areas of concem, including the pits and sumps in the floors, will be evaluated and addressed, as necessary.

2. Contribution to remedial performance

The Site is not presently on the NPL. The response measures proposed in this Action Memorandum will address the threats posed to public health through removal of hazardous substances. The proposed action will contribute effectively to any long-term remedial action with respect to the release or threatened release of hazardous substances at the Site.

3. Description of alternative technologies

Because of the quantities and types of the hazardous substances and/or wastes at the Site, on-site treatment and/or incineration is not appropriate. The selected removal action includes the characterization of hazardous substances found at the Site and the transportation of all hazardous substances off-site for treatment and/or disposal. The selected removal action has been determined to be the appropriate response action for the Site based upon the criteria of effectiveness, implementability and cost.

4. EE/CA

Due to the time-critical nature of this removal action, an EE/CA will not be prepared.

5. Applicable or **R**elevant and Appropriate **R**equirements **(ARARS)**

ARARS that are within the scope of this removal action will be met to the extent practicable. Federal ARARS determined to be applicable for the proposed scope of work include the RCRA, Occupational Safety and Health Act and Hazardous Materials Transportation Uniform Safety Act.

6. Project schedule

It is anticipated that the project will be completed within four months. Four phases will be implemented, each taking different time-frames to complete. Phase one will be mobilization to the Site with consolidation, stabilization, and/or sampling of dmms, cylinders and containers of hazardous substances. Phase two will be the asbestos assessment, abatement, and/or encapsulation within the Site buildings that are structurally sound. Phase three will be the disposal of hazardous substances. Phase 4 will be the Site demobilization.

Estimated Costs:

The estimated costs for the completion of this project are summarized below. Detailed costs are included as Attachment 3.

Extramural Costs:

Regional Allowance Costs:

ERRS Cost	$ 481,000
15% contingency	$ 72,000
Total ERRS Cost	$ 553,000

Other Extramural Costs Not Funded From the Regional Allowance:

Total RST costs	$ 60,000
SUBTOTAL, EXTRAMURAL COSTS	$ 613,000
Extramural Cost Contingency (15%)	$ 92,000
TOTAL EXTRAMURAL COSTS	$ 705,000
TOTAL, REMOVAL PROJECT CEILING	$ 705,000

V. EXPECTED CHANGE IN THE SITUATION SHOULD NO ACTION BE TAKEN

OR ACTION DELAYED

Should no action be taken or the planned actioh be delayed, hazardous substances such as asbestos in Site buildings, and hazardous substances contained in drums, maintenance chemicals, light bulbs and cylinders could be released. A release of hazardous substances from the Site could result in the exposure of the neighboring population and/or contamination of the environment. Releases of contaminants to the air and additional soil contamination could increase the cost of the required removal action.

VL OUTSTANDING POLICY ISSUES

No known outstanding policy issues are associated with the Site.

VII. ENFORCEMENT

At present, there are no known, viable potentially responsible parties (PRPs). Mr. Kraus, who has filed personal bankruptcy, is impecunious. The value of the Site property is minimal. EPA believes that various tenants have abandoned chemicals at the Site. EPA has obtained information on which units each tenant occupied at the Site. Due to unsafe conditions, a detailed inventory has not yet been conducted. During the removal action, EPA will inventory materials on-site. For those viable PRPs whose materials are identified, EPA will seek their participation in the off-site disposal phase with respect to those materials. If any such party declines to participate, cost recovery may be sought.

Enforcement Cost Estimate

Based on full cost accounting practices, the total EPA costs for this removal action that will be eligible for cost recovery are estimated to be $1,049,000, as follows:

EPA's Total Estimated Project-Related Costs

$705,000 (direct exframural costs) + $100,000 (direct intramural costs) = $805,000
30.30% (Region-specific hidirect Cost Rate) x $805,000 = $ 244,000 (rounded indirect costs)

$ 805,000 + $244,000 = $1,049,000 (Estimated EPA Costs for Removal Action)

Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific, direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual

costs from this estimate will affect the United States' right to cost recovery.

VIII. RECOMMENDATION

This decision document represents the selected removal action for the Kraus Enterprise Site in the City of Buffalo, New York, developed in accordance with CERCLA, as amended, and is consistent with the NCP. This decision is based on the Adminisfrative Record for the Site.

Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal action and I recommend your approval of the proposed removal action. The total project ceiling for this removal action, if approved, will be $705,000. Of this, an estimated amount of $553,000 will come from the FY-05 Regional Advice of Allowance for mitigation contracting.

Please indicate your approval, or disapproval, and authorization of funding as per current Delegation of Authority, by signing below.

APPROVAL: William McCabe **DATE:** 5-23-05
William McCabe, Acting Director
Emergency and Remedial Response Division

DISAPPROVAL: _____ **DATE:** _____
William McCabe, Acting Director
Emergency and Remedial Response Division

cc: (after approval)
W. McCabe, ERRD-AD
R. Basso, ERRD-ADD
R. Salkie, ERRD-RAB
J. Rotola, ERRD-RAB
J. Witkowski, ERRD-RAB
G. Zachos, ACSM/O
T. Lieber, ORC-NYCSUP
P. Brandt, PAD
R. Manna, OPM-FMB
T. Riverso, OPM-FIN
T. Grier, 5202G
P. McKechnie, IG
D. Desnoyers, NYSDEC
A. Enghsh, NYSDEC
A. Raddant, DOI
J. Steger, NOAA
L. Battes, NYSEMO
C. Kelley, RST

CONFIDENTIAL
Enforcement Addendum

Attachment 1

NYSDEC Referral

New York State Department of Environmental Conservation
Division of Environmental Remediation, 12th Floor
625 Broadway, Albany, New York 12233-7020
Phone: (518) 402-9543 • **FAX:** (518) 402-9595
Website: www.dec.state.ny.us

Erin M. Crotty
Commissioner

December 22, 2004

Mr. George Pavlou
Director
Emergency & Remedial Response Division
USEPA, Region II
290 Broadway
New York, New York 10007-1866

RE: Kraus Enterprises Warehouse
254 Rano Street/ 21 Isabelle Street
Buffalo (C), Erie County

Dear Mr. Pavlou:

The New York State Department of Environmental Conservation (NYSDEC) hereby requests that the United States Environmental Protection Agency (USEPA) perform an appropriate CERCLA emergency response action at the Kraus Enterprises warehouse at 254 Rano Street and 21 Isabelle Street in Buffalo, New York.

Kraus Enterprises is the owner of record at the warehouse complex at the above-noted address. During a USEPA Removal Action undertaken at the Aryl Site (Site #UU, one of Kraus's tenants in the facility), the owner submitted a letter dated April 16, 2004, which informed tenants that he was abandoning the property. A written request was made by the NYSDEC on May 18, 2004, to the USEPA to investigate residual wastes not originally part of the removal work they had completed.

In response to NYSDEC's request, the USEPA began preparation of a scope of additional work to investigate subsurface conditions proximal to the Aryl tenancy. A site visit was held with NYSDEC personnel and Kevin Matheis (USEPA), at the Aryl site on December 14, 2004. When entering the site, it was observed that the City of Buffalo issued postings informing tenants to vacate the premises. The site is currently vacant, except for a live transformer and switch area supplying power to additional, adjacent buildings apparently not part of Kraus's property. The facility is extensively deteriorated with weakened walls, roof leaks, asbestos-containing material (ACM), and a notable lack of security.

Inside of the vacated Kraus warehouse an estimated 1000+ abandoned containers of paints, solvents, petroleum, and unknown materials were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and states of distress. Many containers indicated contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that had been broken. Excessive amounts of abandoned solid waste presents difficulty in accessing some of the aforementioned waste materials.

Additional USEPA emergency response action is requested to identify and dispose of hazardous wastes and to determine what, if any, impacts to soil and groundwater have occurred as a result of spillage.

If you have any questions regarding this request, please contact Mr. Martin Doster, in our Region 9 office in Buffalo, at (716) 851-7220.

Sincerely,

Andrew J. English

Andrew J. English, P.E.
Acting Director
Bureau of Technical Support

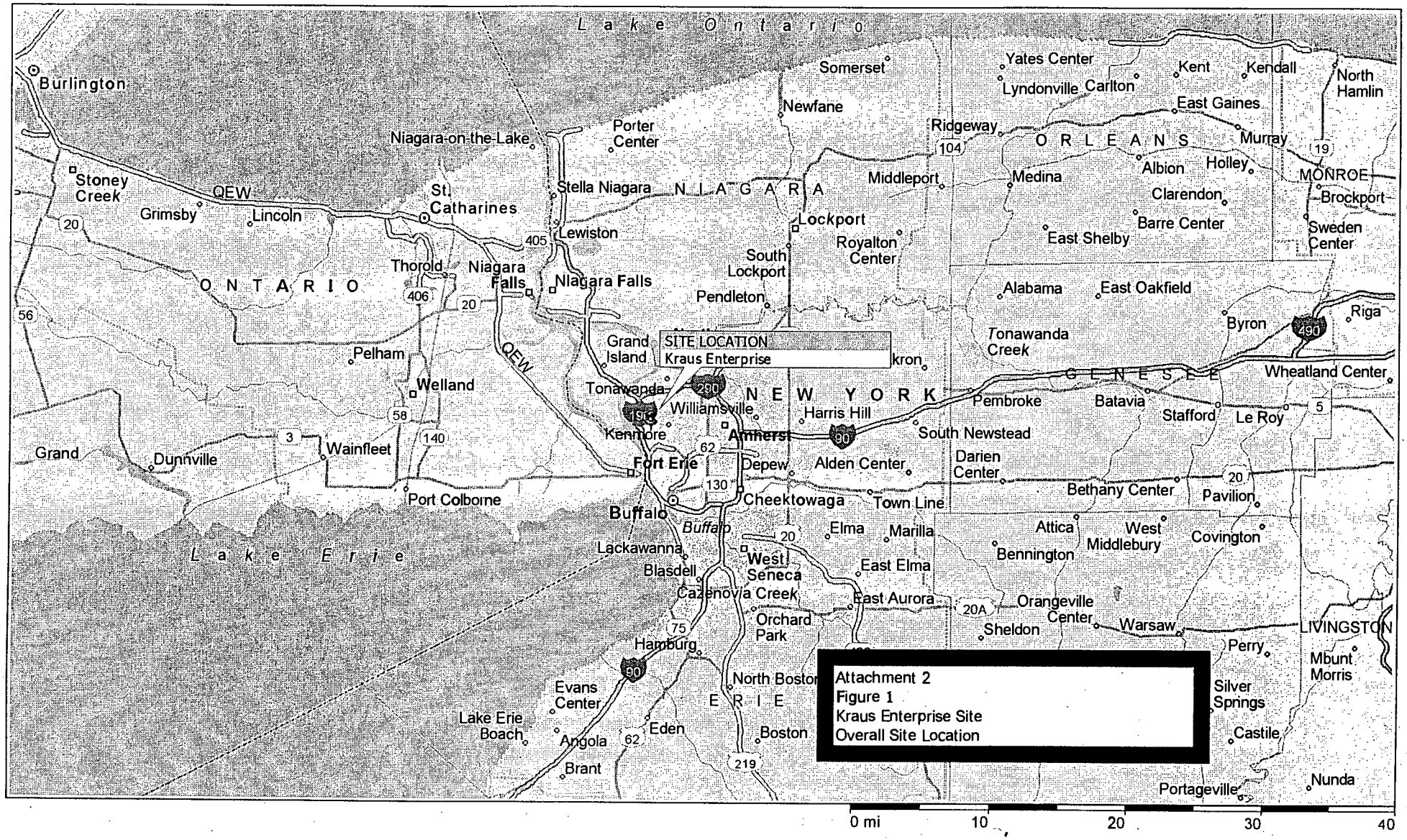
cc: B. Sprague - USEPA, Region II, Edison, NJ
G. Zachos - USEPA, Region II, Edison, NJ
R. Salkie - USEPA, Region II, Edison, NJ

Attachment 2

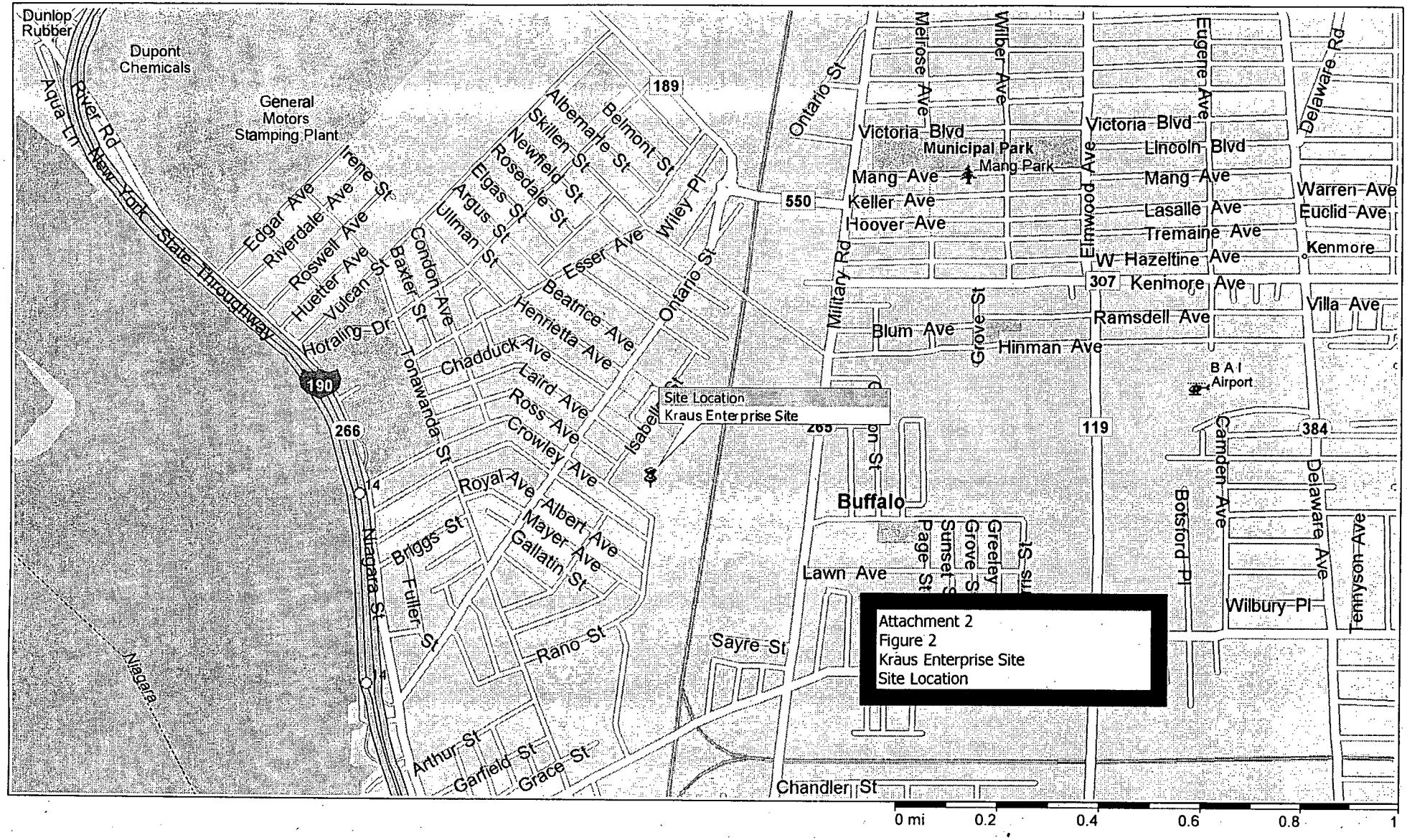
Maps and Photos

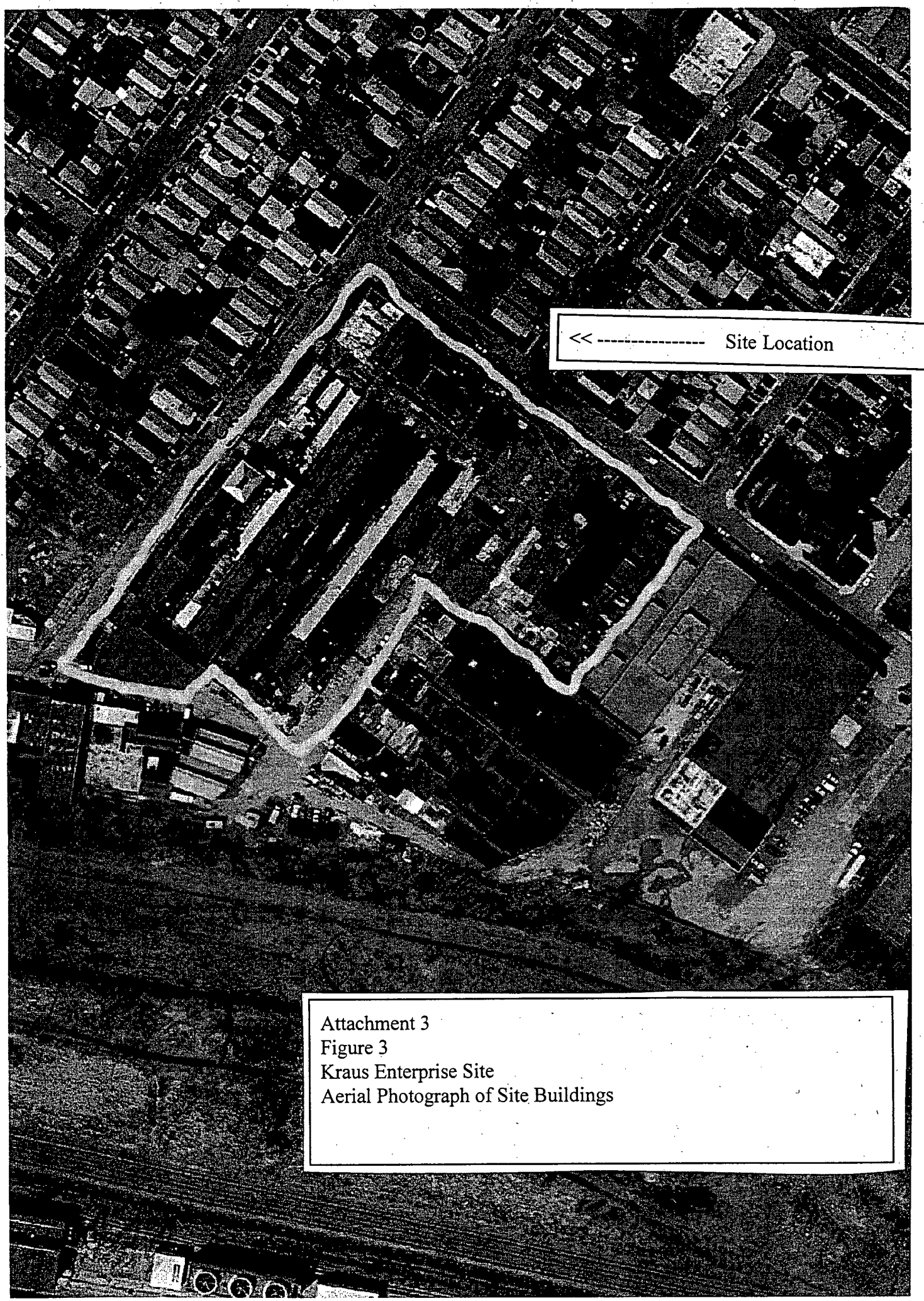
Figure 1 - Site Location
Figure 2 - Site Location
Figure 3 - Site Aerial Photo

North America



Buffalo, New York, United States





Attachment 3
Figure 3
Kraus Enterprise Site
Aerial Photograph of Site Buildings

Removal Site Evaluation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

Date: January 18, 2005

Subject: Removal Site Evaluafion for the Kraus Enterprise Site (WL), City of Buffalo, Erie County, New York

From: Kevin M. Matheis, On-Scene Coordinator
Removal Action Branch

To: File

Site LD. No.: NYO000201939
REMOVAL ASSESSMENT RANKING:

L INTRODUCTION

On December 22, 2004, the New York State Department of Environmental Conservation (NYSDEC) requested that EPA evaluate the Kraus Enterprise Site ahd consider the Site for a removal action. In the referral request, the NYSDEC informed EPA that the vacated Kraus warehouse contains an estimated 1000+ abandoned containers of paints, solvents, petroleum, and unknown materials were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and states of distress. Many of the containers indicated contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that had been broken. Excessive amounts of abandoned solid waste presents difficulty in accessing some of the aforementioned waste materials.

The Site is the location of the former Kraus Enterprise Site that was in operation until April 2004. Krause Enterprise was the owner of a former industrial building which was carved into approximately 50 tenant spaces and rented. In April 2004, approximately 21 tenants were located within the Kraus Enterprise building, when William Kraus (owner) notified his tenants that he was abandoning the property. In July and August 2004, the City of Buffalo Housing Court ordered all remaining tenants of the building to vacate the property. From August to December 2004, former tenants have vacated the property, and may have contributed to the chemicals remaining at the site by abandonment.

Prior to the referral request, on December 14, 2004, EPA accompanied the NYSDEC on a preliminary site visit to the Aryl site (a former Kraus Enterprise tenant) for the purpose of over viewing the post-removal assessment to be implemented by EPA. During the Aryl site inspection, the abandoned Kraus property was visible to EPA and NYSDEC. It was this joint inspection that led to the NYSDEC referral request.

As a result of this referral request, EPA prepared and expedited removal assessment (ERA) and a briefing for EPA management. An EPA attorney has been assigned and has notified the property owner of EPA's need for continued access to the Kraus Site buildings. A tenant list and layout map of the site was provided to EPA by the Kraus attorney. Results of this joint inspection by EPA and NYSDEC identified the presence and actual and potential releases of hazardous substances in drums and other containers located at the Site. In addition, EPA also observed suspected asbestos-containing materials (ACM) on piping, both on the pipes and floor areas.

On January 13, 2005, EPA investigated the site to confirm the presence of hazardous substances and substantiate the threat to human health and the environment. Since the December 14, 2004 investigation, the City of Buffalo had secured the buildings to the best that they could be secured. One doorway was still open, but the gaping holes in the buildings had been boarded up. Upon entry into the building, the floor was covered by 2-4 inches of water. Three six-inch water mains had broken and were leaking throughout the building, spilling the water throughout the building, into the street and into the sewers. During the investigation, RCRA regulated hazardous substances found on site included D001 oxidizers, D002 Corrosives, flammable compressed gases, unknown materials, and hazardous substances in various containers were found throughout the site. .

There has been and continues to be a release of CERCLA designated hazardous substances at the Site, which is defined as a facility under section 101(9) of CERCLA. During the joint inspection and written in the ERA, EPA confirmed the presence of the hazardous substance. The chemicals include an estimated 1000+ abandoned containers of paints, solvents, petroleum wastes, and unknown materials were observed in varying sizes (pints, 1-5-30 gallon cans/drums) in various stages of deterioration. Many containers indicated contents that were corrosive, flammable or toxic. Based on a review of available drum/container labels, flammable materials (acetone, ether acetate, topcoat paint, laquer, mineral spirits), hydrochloric acids, and caustic detergents (pH >12.5) are present. Some spilled materials were observed in several areas of the warehouse, including a large waste pile (with unknown containers within) that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a some having been vandalized and broken. Excessive amounts of abandoned solid waste and flooded buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

In addition to the smaller containers, approximately 40-55 gallon drums were observed to be abandoned on-site. Drums labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials, since no labels were evident. One of the 55 gallon drums within the buildings had been completely spilled onto the floor.

There is evidence of spillage from drums and other containers, possibly to the environment through pit floors and sumps, and several of the drums and containers were observed to be in a deteriorated state.

The NYSDEC referred the Site to EPA in a letter dated December 22, 2004. In the referral, the NYSDEC requested that EPA identify and dispose of hazardous wastes at the site.

The Site is better secured than in December, though doorways are still open and not secured and has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless are evident in the Site buildings. The containers of hazardous substances and asbestos in the buildings present a threat to public health and welfare. Releases from asbestos, dmms and laboratory containers have occurred and continue to occur at the Site.

Portions of the roof stmctures have collapsed or are threatening collapse onto asbestos pipes. One mn of asbestos pipe was directly impacted by the December 2004 fire at the site. Further roof collapse or arson fire in the other buildings may cause asbestos to be released.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Physical Location

The Site is located in a mixed commercial and residential area in the Riverside Section in the City of Buffalo, Erie County, New York. Isabelle Street mns along the northwest edge of ihe Site and Crowley Ave borders the southwest edge of the Site. Bordering the Site along the eastem edge is a commercial rail-line. The Site is one block east/southeast of Ontario Ave., a main commercial street within the Riverside Section of Buffalo. Both Isabelle and Crowley contain residential properties directly across from the Site. There are approximately 7,399 persons comprising 3,353 households within a ½ mile radius of the Site, and approximately 30% of those persons are aged 17 or younger, and approximately 14% are aged 60 and older.

The Site property is approximately 2 acres in site and the Site building covers most of the Site property. These interconnected buildings include former warehouse tenants. These tenants used portions of the building for various manufacturing operations and warehouse storage.

Attachment 1 included in this report, provides layout maps and a tenant map of the site.

2. Site History/Characterisfics

EPA's Enforcement Team is investigating site operational history and former occupants/operators of the buildings. Historical Sanbom maps have indicated that the site buildings were constmcted in 1910 and operated initially by the King Sewing Machine Company. Another Sanbom map from the 1960's indicates that Sylvania Electric Products operated at the facility. At some point, Kraus Enterprises acquired the Site buildings and began operations.

3. Previous Work Relevant to this RSE

None taken. The Aryl Corp. site was a former tenant of Kraus Enterprise and a removal action was implemented at the site in 2004.

4. Site assessment activities/observations

EPA conducted an expedited removal assessment (ERA) at the Site with the NYSDEC on December 14, 2004. Results of this ERA identified the presence of hazardous substances in dmms and other containers located at the Site. In addition, the ERA also documented the presence of suspected asbestos throughout the Site buildings. The inspection conducted on January 13, 2004 also supported the conclusions and findings from the initial inspection. The problems at the site were compounded by the mpture of three water mains within the site buildings, causing the flooding within the buildings at the site.

5. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

The approximately 1,000 small containers of paint-related materials and corrosive cleaners are scattered throughout the facility, haphazardly stored and some of the containers have leaked and may be stored adjacent to chemically incompatible materials. Some of the containers were stored in an area where a recent fire was extinguished by the Buffalo Fire Department, leaving behind charred, unknown containers.

The approximately 40 dmms of unknown materials are also scattered throughout the warehouse. Some of the dmms were observed in the debris piles in the buildings. One of the dmms had been tipped over, releasing its contents onto the ground.

A small 200 gallon tank was also observed within the warehouse buildings. This tank was 90% covered in debris, so its contents could not be ascertained.

The asbestos in the building is in poor condition and some of it has collapsed onto the floors. Asbestos is designated as a CERCLA hazardous substance under 40 CFR §302.4 when it is friable. Friability is the ease with which a material can be cmmbled, pulverized or reduced to powder, when dry, by hand pressure. The more easily that a material cmmbles, the greater the potential for fiber release. Once released, asbestos fibers have the ability to remain airbome air for an extended period of time. Much of the asbestos-containing material in the buildings on-Site is extremely friable due to its exposure to the elements.

The building's partially collapsed roof, historical fires, and open windows represent mechanisms for release of asbestos fibers into the environment. When asbestos-containing materials (ACM) are exposed to the elements, the potential for the off-Site migration of asbestos fibers is significantly increased. The potential for future releases can only be exacerbated by

further deterioration of the buildings and/or release from the Site by the additional fires and/or explosions.

III. THREATS TO PUBLIC HEALTH, OR WELFARE, OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;

There has been and continues to be a release of CERCLA designated hazardous substances at the Site, which is defined as a facility under section 101(9) of CERCLA.

There is a potential exposure to hazardous substances by nearby populations from hazardous substances (§300.415(b)(2)(i)).

The hazardous substances include an estimated 1000+ abandoned containers of paints, solvents, petroleum wastes, and unknown materials were observed in varying sizes (pints, 1-5-30 gallon cans/drums) in various stages of deterioration. Many containers indicated contents that were corrosive, flammable or toxic. Based on a review of available drum/container labels, flammable materials (acetone, ether acetate, topcoat paint, laquer, mineral spirits), hydrochloric acids, and caustic detergents (pH >12.5) are present. Some spilled materials were observed in several areas of the warehouse, including a large waste pile (with unknown containers within) that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a some having been vandalized and broken. Excessive amounts of abandoned solid waste presents difficulty in accessing some of the aforementioned waste materials.

In addition to the smaller containers, approximately 40-55 gallon drums were observed to be abandoned on-site. Drums labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials, since no labels were evident. One of the 55 gallon drums within the buildings had been completely spilled onto the floor.

There is evidence of spillage from drums and other containers, possibly to the environment through pit floors and sumps, and several of the drums and containers were observed to be in a deteriorated state.

Suspected asbestos-containing materials and asbestos insulation have been observed on piping and have fell to the floor.

(iii) **Hazardous substances, or pollutants, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;**

The hazardous substances within the containers on-site present a threat of continuing release. One of the 55 gallon drums was tipped over, spilling its contents onto the floor. Other drums were mixed with the site debris and may have released their contents but were inaccessible due to current site conditions.

The Buffalo Fire Department responded to two fires in December at the warehouse involving debris mixed with hazardous substances.

(v) **Weather conditions that may cause hazardous substances, pollutants, or contaminants to migrate or be released; and**

Some of the roofs in the Site buildings are in poor condifion. The City of Buffalo ordered tenants to vacate the building due to unsafe conditions at the site. Snow melt and rainfall contribute to the decay of the building structure and may cause additional the roof collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the site has not utilities. The containers at the site may be released as a result. Due to the cold weather, water mains within the buildings have ruptured, causing releases of materials into the site and off-site.

(vl) **Threat of fire or explosion;**

The Site contains approximately 1,000 containers of various sizes containing paint-related material, thinners, and compressed gases that are flammable. Some of the containers are in poor condition and are leaking. In December 2004, fires occurred at the Site on two separate occasions. In addition to releases from hazardous substances in a fire, asbestos fibers would also be released from the Site.

(vii) The availability of other appropriate federal or State response mechanisms to respond to the release.

No other federal or State response mechanism is available to respond to the significant threat which the Site presents.

B. Threats to the Environment

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;

The Site is temporarily secured, but has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless are evident in the Site buildings. The containers of hazardous substances and asbestos in the buildings present a threat to public health and welfare. Releases from asbestos, drums and laboratory containers have occurred and continue to occur at the Site.

(v) Weather conditions that may cause hazardous substances, pollutants, or contaminants to migrate or be released; and

Some of the roofs in the Site buildings are in poor condition. The City of Buffalo ordered tenants to vacate the building due to unsafe conditions at the site. Snow melt and rainfall contribute to the decay of the building structure and may cause additional the roof collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the site has not utilities. The containers at the site may be released as a result. Due to the cold weather, water mains within the buildings have ruptured and caused potential releases of hazardous substances within the site buildings and off-site.

IV. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Should no action be taken or the planned action be delayed, hazardous substances such as asbestos in Site buildings, and hazardous substances contained in drums, and lab chemicals, could be released. A release of hazardous substances from the Site could result in the exposure of the neighboring population and/or contamination of the environment. Releases of contaminants to the air and additional soil contamination could increase the cost of the required removal action.

V. CONCLUSIONS

The Kraus Enterprise Site is considered a facility as defined by Secfion 300.5 of the NCP. A release of hazardous substances has occurred on the Site in a quantity and concentration that has resulted in a substantial threat to the public health and the environment. There is a current exposure pathway existing to humans and the environment that may present an imminent and substantial endangerment and no other party, govemment or otherwise, is currently taking a timely response action to mitigate the threat.

Based on the quanfity and condition of the asbestos-containing material present at the Site, and the containers of known and suspected hazardous substances, the Site poses a health threat to unprotected individuals accessing the Site and being exposed to these contaminants and a potential health threat to individuals residing or working in the vicinity of the Site.

VI. RECOMMENDATIONS

It is recommended that a CERCLA Time-Critical Removal Action be undertaken to mitigate the threats associated with the release of hazardous substances in containers, friable asbestos that is in poor condition, and cleanup of spill areas as appropriate.

The following activities are proposed to address the immediate threats to human health and the environment posed by hazardous substances, or pollutants, or contaminants present at the Site.

a. Stabilizafion - All containers that are open or of questionable integrity will be over-packed or transferred into new containers. Containers will be placed in compatible waste groups and removed from areas containing asbestos.

b. Sampling - All containers will be inventoried and sampled as appropriate. The dmms and tank will be sampled for disposal analysis parameters. Where possible, composite samples will be taken to reduce the total amount of samples analyzed. Areas of asbestos contamination will be sampled to confirm and/or delineate the presence of asbestos in Site debris.

c. Analysis - All samples will be evaluated for compatibility. The samples will be analyzed for disposal parameters, anticipated to be the fiill toxicity characteristic leaching procedure (TCLP) analysis.

d. Disposal - Upon receipt of disposal analysis, waste profiles will be completed and sent to disposal facilities for acceptance. Compatible materials will be sent to off-Site disposal facilities in compliance with EPA's Off-Site Disposal Rule.

e. Asbestos Abatement - Some of the areas at the Site which contain dmms and other containers of hazardous substances are situated in highly contaminated asbestos areas. During the stabilization and sampling phase, areas that contain the greatest concentrations

of asbestos will be addressed prior to demolition actions. An asbestos abatement contractor will abate the asbestos from these areas. Once these areas are abated, workers will proceed with hazardous substance stabilization, sampling and disposal.

Project schedule

It is anticipated that the project will be completed within four months. Four phases will be implemented, each taking different time-frames to complete. Phase one will be mobilization to the Site with consolidation, stabilization, sampling and disposal of drums, tanks, and containers of hazardous substances. Phase two will be the asbestos abatement of the Site buildings that are structurally sound. Phase three will be the removal of containers of hazardous substances and asbestos that has been abated.

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Kraus Enterprise
NY0000201939

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(Kevin Matheis)
On-Scene Coordinator

12/1/09
Date